

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE LUIS SERRANO-RODRIGUEZ,

Defendant.

03:05-CR-00075-LRH (RAM)

ORDER

Presently before the Court is Defendant Jose Luis Serrano-Rodriguez's ("Serrano-Rodriguez") Motion to Dismiss Indictment for Failure to Comply with Court's Order RE: Discovery or in the Alternative for an Order to Show Cause (Docket No. 18). The United States of America has filed an opposition (Docket No. 20). No reply was filed.

Serrano-Rodriguez was indicted on April 13, 2005, and charged with unlawfully reentering the United States in violation of 8 U.S.C. § 1326(a). On June 21, 2005, Magistrate Judge Robert McQuaid ordered that the Department of Homeland Security, Immigration and Customs Enforcement produce to defense counsel the defendant's Alien ("A") file within seven days of that Order. The "A" file contains the discovery in this case. On October 6, 2005, Serrano-Rodriguez filed the present motion seeking to dismiss the indictment due to the Government's failure to produce the "A" file. Specifically, Serrano-Rodriguez argues that the failure to produce the "A" file has violated his Sixth Amendment rights to the assistance of counsel and trial by jury, and his

1 Fifth Amendments right to due process and protection against double jeopardy.

2 Since the filing of Serrano-Rodriguez's motion, the United States Attorney's Office
3 contacted the case agent in charge of this matter and effectuated the delivery of the "A" file. In
4 addition, the United States has stipulated to a continuance in order to give Serrano-Rodriguez
5 adequate time to prepare for trial. Because Serrano-Rodriguez has now received the "A" file and a
6 continuance in order give him time to prepare for trial, the Court finds that dismissal of the
7 Indictment is not warranted.

8 IT IS THEREFORE ORDERED that Serrano-Rodriguez's Motion to Dismiss Indictment
9 for Failure to Comply with Court's Order RE: Discovery or in the Alternative for an Order to Show
10 Cause (Docket No. 18) is hereby DENIED.

11 IT IS SO ORDERED.

12 DATED this 23rd day of November, 2005.

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16 LARRY R. HICKS
17 UNITED STATES DISTRICT JUDGE
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